

1
2
3
4
5
6 IN THE UNITED STATES DISTRICT COURT
7 FOR THE NORTHERN DISTRICT OF CALIFORNIA
8

9 KOWAN SHAWN MCCLURE,

No. C 14-5629 MMC

10 Plaintiff,

**ORDER ADOPTING MAGISTRATE
JUDGE'S REPORT AND
RECOMMENDATION; DISMISSING
COMPLAINT WITH LEAVE TO AMEND**

11 v.

12 YOUTH AND FAMILY SERVICES OF
13 SOLANO COUNTY, et al.,

14 Defendants.
15 _____/

16 Before the Court is Magistrate Judge Joseph C. Spero's Report and
17 Recommendation, filed April 3, 2015, by which Magistrate Judge Spero recommends the
18 complaint be dismissed for failure to state a federal claim, in part with leave to amend. No
19 objections to the Report and Recommendation have been filed.

20 Having reviewed the matter de novo, the Court, for the reasons expressed by
21 Magistrate Judge Spero, hereby ADOPTS the Report and Recommendation in its entirety,
22 and the complaint is hereby DISMISSED as follows:

23 (1) Plaintiff's claim under 42 U.S.C. § 1983 is dismissed with leave to amend to
24 plead additional facts, if any, describing how the conduct of each of the defendants
25 deprived plaintiff of his liberty interest without due process of law.

26 (2) Plaintiff's claim under the Health Insurance Portability and Accountability Act
27 ("HIPAA") is dismissed without prejudice to pleading a state law claim based on the
28 conduct alleged therein.

1 (3) Plaintiff's claim under the Indian Child Welfare Act ("ICWA") is dismissed with
2 leave to amend to plead facts supporting a claim under said statute.

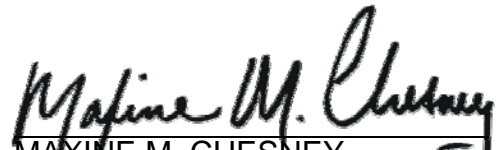
3 (4) Plaintiff's claim under Title 45 of the Federal Code of Regulations is dismissed
4 without leave to amend.

5 (5) Given the dismissal of plaintiff's federal claims, plaintiff's state law claims are
6 dismissed for lack of jurisdiction and may be alleged again if plaintiff elects to file a First
7 Amended Complaint in accordance with the above or, if no such amended complaint is
8 filed, may be brought in state court.

9 (6) Plaintiff's First Amended Complaint, if any, shall be filed no later than May 20,
10 2015.

11 **IT IS SO ORDERED.**

12
13 Dated: April 24, 2015


MAXINE M. CHESNEY
United States District Judge